

**WATER POLICY SUBCOMMITTEE
ENVIRONMENTAL QUALITY COUNCIL**

July 26, 2000

Meeting Minutes

Draft: August 25, 2000

Approved: September 11, 2000

COMMITTEE MEMBERS PRESENT

Sen. Bea McCarthy, Chair

Rep. Bill Tash

Sen. Jon Tester

STAFF MEMBERS PRESENT

Mary Vandebosch, Resource Policy Analyst

Judy Keintz, Secretary

Agenda ([Attachment 3](#))

Visitors' list ([Attachment 1](#))

SUBCOMMITTEE ACTION

- ▶ Approved minutes of the May 4, 2000 Water Policy Subcommittee Meeting.
- ▶ Discussed and made a decision on the content of the final report of the Water Policy Subcommittee.
- ▶ Decided the Subcommittee had completed its responsibilities and no further meetings would be necessary.

INTRODUCTION AND ROLL CALL

The meeting was called to order at 6:30 p.m. by CHAIR MCCARTHY. Roll call was noted; all members were present, [Attachment 2](#).

II REVIEW OF COMMENTS RECEIVED ON DRAFT REPORT

MS. VANDENBOSCH reviewed the Summary of Comments Received on Draft Report, [Exhibit 1](#). She also provided a copy of Comments Received on Draft Report, [Exhibit 2](#). Comments were received from 21 individuals or organizations. There were no comments that supported the draft recommendation, 20 comments that opposed the draft recommendations and one letter did not address the draft recommendations.

She further added that the Department of Environmental Quality (DEQ) has issued a revised general permit for concentrated animal feeding operations (CAFOs). This will become effective in mid-August.

REP. TASH remarked that he was impressed with the consistency of the people who commented on the draft recommendations. The commentators were strongly opposed to the draft recommendations and thoroughly explained their points of concern. He further remarked that the Subcommittee needed to seriously reconsider its draft recommendations.

MS. VANDENBOSCH reviewed the draft recommendations found in the Water Policy 2000 Draft Report, pages 28 and 29, [Exhibit 3](#).

Tom Reid, DEQ, stated the general permit for CAFOs was reissued on July 11, 2000 with an effective date of August 15, 2000. The permit is effective for five years and will expire on midnight of July 31, 2005. He provided a copy of the General Discharge Permit, [Exhibit 4](#). Approximately 30 comments were received on the draft permit. The permit conforms to federal criteria and guidance for CAFOs. There is a requirement for operations of over 1,000 animal units to develop a waste management plan. Effluent limits are set based on Montana water quality standards. The strategy which was developed concurrently with the general permit is also being finalized and should be sent out within a week.

SEN. TESTER requested further information regarding the comments. **Mr. Reid** explained that a number of comments addressed the burden of record keeping. Comments were also received from the U.S. Environmental Protection Agency (EPA) recommending additional record keeping requirements.

SEN. TESTER asked a question about issuance of an individual permit once the general permit was adopted. **Mr. Reid** explained that individual permits would be required for a number of conditions under rule. If it is determined during a review of the application that the applicant cannot meet the effluent limits, the general permit can be denied and an individual permit would then be written for the facility. If the conditions of the general permit are violated, the authorization can be revoked and an individual permit application can be requested. If the facility is located in a unique ecological area and would cause a violation of the water quality standards, an individual permit may be necessary.

III PUBLIC COMMENT ON DRAFT REPORT RECOMMENDATIONS

Steve Pilcher, Montana Stockgrowers Association, stated that the DEQ has sufficient latitude to require an individual permit when necessary. It is not fair to arbitrarily require an individual permit for everyone meeting a certain threshold. The permits are issued under the authority of the Montana Water Quality Act and the federal Clean Water Act. Neither of these acts gives the DEQ the authority to require bonding. The terminology used in the report is the

same as used in the area of Superfund activity. This only applies to certain categories of waste and would not include livestock and swine waste.

Sue Huls, Montana Pork Producers Council, presented her written testimony, [Exhibit 5](#).

Neil Ugrin, Attorney, remarked that the spill near Conrad did not produce any significant problems although it did generate some political concern. Five hundred to 1,000 gallons of diluted hog waste escaped from a broken pipe. This was self reported and self cleaned. There is no history for a need of closure, post-closure, or corrective action bonding. There is little likelihood of multiple, large hog production facilities in Montana. Montana is not close enough to market or a supply of corn which is needed for large hog production facilities. The DEQ is very stringent in its requirements and supervision of hog production facilities. Properly used, hog manure is an asset as opposed to cyanide, sulfuric acid, etc. The Conrad facility did have an individual permit. This part of Montana agriculture cannot sustain an additional financial burden that is not clearly justified.

Questions from Subcommittee Members:

SEN. TESTER questioned how many hog production facilities would be affected by the 2,500 AU (animal unit) limit set in the proposal. **Ms. Huls** believed that half of the major producers would be affected. This would be approximately 30 to 50 operations.

John Youngberg, Montana Farm Bureau, remarked that the DEQ maintains that there are no operations reported in the state that have over 2,500 AU at any one time. SEN. TESTER raised a concern that the pork industry is headed to a situation where the corporate sector will control the production of the product. The intent of the Subcommittee was to set limits so that when the mega corporations come into Montana, the state would have some control over their ability to put the smaller pork producers out of business.

Bruce Samson, Montana Pork Producers Council, stated that his operation involves 300 sows which would result in 3,000 pigs at all times. He has one employee. The recommendation of a bond makes him very nervous.

Wayne Gipp, Extension Swine Specialist - MSU, remarked that a large number of pork producers would typically have cows and calves in addition to pigs, so the 2,500 animal unit figure would apply to many of these facilities. The rule of thumb is 20 pigs per sow per year. An operation that had 100 sows would produce 2,000 pigs. With a \$10 per head profit for a 100 sow operation, this would amount to \$20,000 profit per year. He noted that the recommendations should address the Montana swine industry and should not be based on what is reported from other states. A law which has passed in another state may not be in response to a real problem and also may not have solved the problem.

SEN. TESTER noted that the Subcommittee should have invited a pork producer representative to their meetings.

REP. TASH requested more information on the niche marketing. **Ms. Huls** stated that since the Canadian packing industry has added a number of plants, she has started receiving calls from smaller plants in California looking for hogs which they had previously bought from Canada. Canada has geared up, with a lot of government incentives, to provide hogs for the world market and will probably be the number one exporter of hogs in 2000.

REP. TASH questioned whether this might be a marketing opportunity for Montana or other U.S. hog producers. **Ms. Huls** stated that they have just received approval to send hogs to Canadian plants. There was a prohibition due to a disease found in a few states. The main problem is the exchange rate. There are plants at Lethbridge, Calgary, and Saskatoon.

IV SUBCOMMITTEE DECISION ON RECOMMENDATIONS TO EQC

REP. TASH suggested that on the issue of individual permits, the Subcommittee make no recommendations to the EQC.

SEN. TESTER remarked that on the issue of financial assurance, the Subcommittee make no recommendations to the EQC.

Motion/Vote: REP. TASH MOVED THAT THE SUBCOMMITTEE MAKE NO RECOMMENDATIONS TO THE EQC ON THE ISSUES OF INDIVIDUAL PERMITS AND FINANCIAL ASSURANCE. THE MOTION CARRIED UNANIMOUSLY.

V REPORT AND BRIEFING PAPER CONTENT: INSTRUCTIONS TO STAFF

MS. VANDENBOSCH noted that a briefing paper would no longer be necessary. She noted that the final report would be updated to include Judge Molloy's decision on the remedy in Friends of the Wild Swan v. EPA as well as Judge Sherlock's decision not to review MEIC v. DEO.

Motion/Vote: SEN. TESTER MOVED THAT THE SUBCOMMITTEE ADOPT CHAPTERS 1-4 OF THE DRAFT REPORT. THE MOTION CARRIED UNANIMOUSLY.

VI BUSINESS AND NEXT STEPS

► Adoption of Minutes

Motion/Vote: SEN. TESTER MOVED THAT THE MINUTES OF THE MAY 4, 2000, WATER POLICY SUBCOMMITTEE MEETING BE APPROVED AS WRITTEN. THE MOTION CARRIED UNANIMOUSLY.

► **Review of Outstanding Work Plan Items**

MS. VANDENBOSCH noted that SEN. CRISMORE sent a letter to four state agencies encouraging them to be leaders in implementing nonpoint source best management practices (BMPs). A response has been received from the Department of Administration and no responses have been received from the other agencies.

The Subcommittee recommended that the letter be reissued.

MS. VANDENBOSCH commented that the Subcommittee had requested that she send a letter to county commissioners explaining their authority in regard to addressing hog producing facilities. She will prepare this letter and it will be available for review by the Subcommittee before it is sent out.

The EQC is required to analyze and comment on the Renewable Resource Grant and Loan Program. This report will be given at the meeting on Friday, July 28th. The EQC is also required to analyze and comment on the water information system of the Natural Resources Information System (NRIS). This is on the agenda for the September EQC meeting. In September, there will also be a report from the agencies in regard to their proposal for tracking environmental trends.

The Subcommittee decided there would not be a need for another Subcommittee meeting.

VII ADJOURNMENT

There being no further business, the meeting adjourned at 8:00 p.m.